

# Exhibit 2



DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Washington DC 20420

January 9, 2018

Brooke Schreier Ganz  
President and Founder of Reclaim  
The Records MuckRock News  
DEPT MR 43139  
411A Highland Ave  
Somerville, MA 02144-2516

FOIA#: 18-03259-F

Dear Mr. Ganz:

This letter is in response to your Freedom of Information Act (FOIA), 5 U.S.C. 552, received in our office on September 20, 2017, in which you are seeking a copy of the most current and complete BIRLS Death file.

The Veterans Benefits Administration conducted a reasonable search for the records you are seeking. It has been determined that we cannot provide a full copy of BIRLS Death File without releasing PII information. My review of the documents revealed that they contained information that falls within the disclosure protections of FOIA Exemption 6, 5 U.S.C. § 552(b)(6). FOIA Exemption 6 permits VA to withhold a document or information contained within a document if disclosure of the information would constitute a clearly unwarranted invasion of a living individual's personal privacy. Stated another way, VA may withhold information under FOIA Exemption 6 where disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government.

Specifically, the information I am withholding under FOIA Exemption 6 consists of Veterans and their beneficiaries as the individuals associated with this information have a personal privacy interest in it.

The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the materials provided, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. The individuals associated with this information have a personal privacy interest in information that outweighs any public interest served by disclosure of their identities under

FOIA. Consequently, I am denying your request for this information under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6).

This concludes our response. Your request was processed by the undersigned. You may appeal the determination made in this response to:

General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, D.C. 20420

If you should choose to make an appeal, your appeal must be postmarked no later than ninety (90) calendar days after the date of the adverse determination. It must clearly identify the determination being appealed and must include any assigned request number.

The appeal should include:

1. The name of the FOIA Officer
2. The address of the component
3. The date of the component's determination, if any
4. The precise subject matter of the appeal

If you choose to appeal only a portion of the determination, you must specify which part of the determination you are appealing. The appeal should include a copy of the request and VA's response, if any. The appeal should be marked "Freedom of Information Act Appeal".

In addition to filing an appeal with the Office of General Counsel regarding my determination, you may also seek assistance and/or dispute resolution services regarding your FOIA request from VA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VA FOIA Public Liaison:  
Email Address: [vacofoiaservice](mailto:vacofoiaservice)  
Phone Number: (877) 750-3642

Office of Government Information Services (OGIS)  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: (202) 741-5769  
Mailing address: Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740-6001

Thank you for your interest in the Department of Veterans Affairs. Customer service is very important to us. If you have questions regarding this letter, please contact me on (202) 632-8928.

Sincerely yours,

*Gwen Smith*

Gwendolyn Smith  
FOIA Officer